

Perceptions of Summary Criminal Justice in Scotland

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In July and August 2011, three deliberative research workshops were held with members of the public in Scotland: one each in Ayr, Livingston and Aberdeen. This was part of a wider evaluation to explore the impact of Summary Justice Reforms (SJR) on victims and witnesses, as well as to gauge public perceptions of the summary justice system, and the reforms overall. The purpose of the subsequent analysis of workshop data, which is presented here, was to further explore people's understanding, perceptions and expectations of the Summary Criminal Justice System in Scotland; present wider messages around how people view justice per se; and discuss what could be done to improve or maximise public confidence in the system.

Main Findings

- There was limited and often inaccurate knowledge of the criminal justice system in Scotland among people involved in this research, for both summary and solemn procedures. There was also, however, an appetite to know more about the system.
- People's perceptions and understanding of the system were based largely on media and popular television presentations of justice, especially in the absence of direct personal or vicarious experience.
- Although not well understood, lay justice was something that people seemed to engage well with and view as a reasonable way of administering localised, community sensitive disposals.
- Participants wanted to see greater respect for victims and witnesses in the system, including better treatment at court and the receipt of case progress information at all stages of the justice process.
- The public court experience was perceived to be intimidating and not easy to understand, and this was compounded by perceptions that professionals working within the court system (including defence and prosecution agents) were unsympathetic to how daunting the experience may be for members of the public.
- Participants perceived the current system to be skewed in favour of the accused, and believed that the court and prison system was not taken seriously by some offenders.
- Views on sentencing were complex. Community sentences and community payback were generally well supported by all participants as a means of delivering 'visible justice', which directly benefited those affected by the crimes. Views on custodial sentences were more varied.
- Restoring and improving social values of respect for justice and authority overall was seen as a key underlying challenge to reducing re-offending in the future. There was no suggestion, however, that responsibility for this should necessarily sit with the justice system.

Introduction

There has been little qualitative work in Scotland to date that has specifically explored the attitudes, views and expectations of lay members of the public with regard to the justice system. The preference instead has been for canvassing public views as part of large scale surveys (most notably via the Scottish Crime and Justice Survey)¹.

This report seeks to fill some of the gaps in existing knowledge and to bring up-to-date our understanding of what people know, perceive and want of the justice system in Scotland.

The report is based on data collected as part of the previously published SJR Victims, Witnesses and Public Perceptions evaluation, but offers further insight into people's understanding, perceptions and expectations of the Summary Criminal Justice System in Scotland. It presents wider messages around how people view justice per se and discusses what could be done to improve or maximise public confidence in the system.

Methods

Deliberative research is a technique that is useful for exploring how people feel about issues of which they have little or no previous knowledge. It is usually conducted on a larger scale than a focus group and is characterised by gathering both uninformed and informed views on a given topic. Either when or before people are convened, initial views on the subject matter are collected and are compared to those given after knowledge has been imparted. The event itself is a mixture of discussion and informing of the audience by 'experts'. In this case, a number of Summary Justice experts were invited to attend the events, to provide information to attendees and to answer questions that arose on the night. Experts included police officers, solicitors, Procurators Fiscal and victim support workers, among others.

Members of the public were recruited at random on the street and door-to-door in the summer of 2011. A total of 20 people were recruited to each group, with 56 participants taking part overall.

While the recruitment for the workshops sought to achieve a broad mix of demographics across a spread of geographic areas, the findings presented here cannot be considered as representative of the communities from which the workshop participants were drawn and instead only provide indicative

insight into the local communities' views. Those with direct recent experience of the justice system were deliberately not recruited to the groups.

Main Findings

Overall, when exploring knowledge and understanding of the summary justice system, all of the participants demonstrated little or no knowledge or understanding of it. The main reason given for this was a lack of direct involvement or engagement with the system. People's main direct contact with the justice system had been either as a result of being called for jury service, as a witness (often not actually resulting in an appearance at court) or as a witness to a minor crime, which was reported to the police but proceeded no further. Whilst TV programmes and newspapers were cited as main sources of knowledge, participants also stressed that they were unsure about the factual accuracy of the programmes they viewed.

There was, in particular, a lack of awareness of the different levels of court (High Court, Sheriff and Jury, Sheriff Court and Justice of the Peace (JP) Courts). The notion of JP courts, although not well understood, was something the participants seemed to engage well with and view as a reasonable way of administering localised, community sensitive disposals.

Although participants did not feel sufficiently well informed to comment on the efficiency of the system they quite confidently expressed that the system was not fair, effective, quick nor simple despite having little or no direct personal experience of it. This was largely because they perceived victims and witnesses were often treated unfairly, that re-offending rates were increasing (despite statistical evidence to the contrary) and that cases took too long to progress through court. The use of antiquated legal jargon in the system was also perceived to make it inaccessible to lay members of the public. Overall, there was a general agreement between, and within, groups that lay members of the public would like to know more about the system.

When provided with factual information about how the system works, one of the main feelings that was expressed was disappointment at the lack of information provided at key stages throughout the justice process to victims and witnesses. This was coupled with strong views that more support should be made available routinely to victims and witnesses at all stages of the court journey. Current perceptions that victims and witnesses were not well treated by the system were seen as potentially deterring people from coming forward to the police to report crimes.

¹ Wilson, C. (2012) *The Public and the Justice System: Attitudes, Drivers and Behaviour*, A Literature Review, Scottish Government

The consensus amongst participants at the workshops was that the system needed to be equally fair to all three parties: accused, victims and witnesses – but not many participants felt that this was currently the case. Instead, they felt that the system currently favoured accused over victims. There was also a perception that the current protocol allowed offenders to ‘work the system’ to their own advantage. One area of particular concern was persistent failure to appear at court among accused and their general demeanour in court, both of which were perceived to be demonstrative of a lack of respect for the law. Several discussions revealed that some members of the public also perceived the offender bias to be supported by facets of the system which allowed them to reduce their sentence. These include discounts for early pleas and early release from prison, the first of which was discussed with participants in relation to the recent summary justice reforms to legal aid which were designed to encourage early guilty pleas.

Although the workshops did not have a primary focus on sentencing, many of the discussions revealed a lot about people’s perceptions of the nature and leniency of what they perceived characterised current sentencing practices and outcomes. It is important to note that most of the views expressed reflected participants’ priorities for sentencing and, in many cases, bore no relation to how the system currently operates in practice.

Regardless of the types of disposals discussed, there was a shared empathy across the group discussions that victims would probably wish to have a say in the sentencing of those who perpetrated crimes against them, and that their voice should play a part in the sentencing process, if they desired. There was also a shared view among a large number of participants that offending histories should be taken into account both when determining guilt and during sentencing.

Across almost all groups, sentiments were expressed about the potential positive value of making offenders return to the scenes of their crimes to repair criminal damage, in order to provide direct compensation to the individuals and communities who had been affected by them. There was also a view expressed that greater visibility of community service work may give it greater credibility as a punishment in the eyes of both the public and the offender.

There was some cynicism about whether fines presented a credible punishment option and whether, therefore, they presented a real deterrent to offending. The main issue was the value of using fines for people where it was quite clear repayment would not occur (either because they ‘could not’ or ‘would not’ pay).

Where people genuinely could not pay, there was a strong preference for community service over short-term custodial sentences for low level offences since, on balance, community work disposals were perceived to be more visible, less attractive to offenders and potentially more likely to offer rehabilitative value and thus be a greater deterrent to re-offending. There was no suggestion among participants that an inability to pay should mean that punishment should not be meted out.

Discussions around custodial sentences usually provoked one of two types of responses: either that everyone should be ‘locked up’, as it was the most serious deterrent, or that prisons were simply not effective. In particular, it was suggested that existing prison conditions were too ‘comfortable’ and that this meant that prison was not seen as a real deterrent (despite little knowledge of what actual conditions were like).

Overall, the view expressed was that, whilst prison sentences needed to be fair and consistent, they also needed to be sufficiently tough that offenders would not commit further crimes. Interestingly, this view, which was quite widespread among participants, is not reflected in the research evidence which shows that tough treatment is less impactful on reoffending or recidivism than dealing directly with offenders’ criminogenic needs (including, for example, tackling their social attitudes, changing their social circles, tackling drug and alcohol addiction problems, etc.) Indeed, a small number of those who took part in the workshops did recognise that punitive treatment in prison would not have any rehabilitative value, and so tough prison conditions were seen as potentially useful only if accompanied by access to, and rehabilitative work with, specialists (e.g. social workers or drug specialists) who could help to explore the roots of offending behaviour.

Across the groups, there appeared to be quite strong support for the notion of making punishments more visible to the public, in order to act as a deterrent to future offending i.e. ‘naming and shaming’ or public humiliation. Such views again, however, are not supported by the research evidence which instead shows that the likelihood of punishment, and not its severity, is more likely to act as a deterrent.

There was consensus that a fair justice system needed to ensure that any person accused of a crime or offence should have access to a fair trial and the right to be heard, and that, overall, the assumption that people are innocent until proven guilty was a principle to be upheld. The only exception to this was repeat and prolific offenders for whom there was less desire to apply an assumption of innocence.

Finally, among the participants, there was a recognition that wider social change would be required, rather than tackling the system alone in order to reduce crime and anti-social behaviour in its entirety. Restoring and improving social values of respect for justice and authority overall was seen as a key underlying challenge to reducing re-offending in the future. There was no suggestion, however, that responsibility for this should necessarily sit with the justice system.

Conclusions

In conclusion, the work has shown that, at least among these participants, people know little but would like to know more about criminal justice in Scotland and, in particular, there is an appetite for factual knowledge about the system and how it works. A system that is seen as being designed and delivered with the public in mind seems to be fundamental to what people expect and ensuring that the system is end-user-led also seems to be key.

This document, along with full research report of the project, and further information about social and policy research commissioned and published on behalf of the Scottish Government, can be viewed on the Internet at: <http://www.scotland.gov.uk/socialresearch>. If you have any further queries about social research, please contact us at socialresearch@scotland.gsi.gov.uk or on 0131-244 7560

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